EDUCATION WEEK

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O.C.R. Director Admits Laxness In Enforcement

Rapid Staff Turnover, Federal Mandates Cited

By Peter West

WASHINGTON—In a departure from the stance taken by the Reagan Administration, the head of the Education Department's office for civil rights acknowledged last week that the agency should have done more to enforce federal anti-discrimination laws.

"We have not managed O.C.R. as effectively as we should have," Acting Assistant Secretary William L. Smith told the House Education and Labor Committee.

While Reagan Administration officials steadfastly maintained that criticism of the O.C.R was unjustified, Mr. Smith testified that efforts to enforce civil-rights statutes during the 1980's had been hampered by rapid staff turnover, as well as federal judicial mandates the Administration repeatedly complained about.

Mr. Smith said he has undertaken comprehensive reviews of the performance of the O.C.R.'s regional and national offices since being appointed in March and hopes to make better use of existing resources. He promised to submit a report to the committee by Jan. 15.

But he said also that he stands behind the current Administration's record in civil-

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Donal F. Holway

Beth Hirschel, a teacher at Public School 41 in Brooklyn, N.Y., conducts class. The school is in its third year of a pilot program using flexible groupings in grades K-3.

First Stirrings of a New Trend: Multi-Age Classrooms Gain Favor

By Deborah L. Cohen

A character from *Dr. Doolittle*, the "pushmepullu," guards the entrance to Lake Geor[illegible]e (N.Y.) Elementary School's "green cluster," one of several classrooms specially arranged for instructing children of varying ages together.

The name of the two-headed creature in papier-mâché captures what is happening in this and other experimental primary-grade settings where age and competitiveness have been deemphasized.

To proponents of ungraded or mixed-age classrooms, letting pupils develop at their own pace helps those at differing ability levels push and pull each other along.

Programs built on such a philosophy shun the restriction of individual grade levels. They offer, instead, flexible groupings that encompass a two- to four-year span, allowing movement between levels for those pupils ready to advance or needing more help in a subject.

Lilian G. Katz, director of the ERIC clearinghouse on elementary and early-childhood education at the University of Illinois, says the arrangement is "emerging as a possible trend for a number of reasons."

Conventional grading, she explains,

Continued on Page 13

Justices Decline Special-Ed. Case On School for All

Court Refuses To Review 'Zero Reject' Philosophy

By Debra Viadero

WASHINGTON—The U.S. Supreme Court last week declined to review a controversial appellate ruling that public schools are obligated to educate all handicapped children, regardless of how little they might benefit.

Without comment, the Justices rejected an appeal by the Rochester, N.H., school district, which had been ordered by a federal appeals court to serve a 13-year-old boy who is so profoundly retarded that experts disagree over his ability to respond to stimuli.

The case, *Timothy W.* v. *Rochester, N.H., School District* (Case No. 89-515), is among the first to address what has come to be known as the "zero reject" philosophy, which holds that, under federal special-education law, no child is too handicapped for public schooling. The suit has been closely watched by advocates for disabled children, as well as by groups representing school boards, local governments, and school administrators.

School groups have expressed concern over the financial and other implications of providing schooling for the estimated 4,000 children nationwide who may be as seriously handicapped as Timothy W.

The decision the High Court let stand sets a precedent only within the jurisdiction of the U.S. Court of Appeals for the First Circuit, which includes Maine, Massachu-

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Critics Warn Mergers In Textbook Industry Could Hurt Quality

By Robert Rothman

The consolidation of the textbook-publishing industry, a development viewed with growing alarm by some educators, took another step forward in November with the announcement by Time Warner Inc. of its intention to sell Scott, Foresman and Company.

The $455-million sale will transfer ownership of the nation's sixth-largest school publisher to Harper & Row Publishers Inc., a firm best known as a trade-book and college-textbook house.

Critics warned that the deal represents the continuation of a trend that could result in fewer options and less innovation in educational materials.

Because of the mergers and buyouts that have swept through the field over the past few years, industry officials said, the number of publishers producing major basal series in key subject areas has been cut in half. This trend reduces competition and may result in greater homogeneity among the materials, critics warned.

Moreover, they contended, the buyouts threaten the quality of textbooks by moving

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Science and Math Journal for Teenagers Represents Unusual U.S.-Soviet Venture

By Robert Rothman

A magazine that represents an unusual joint educational venture by the United States and the Soviet Union was expected to be unveiled this past weekend in an august but appropriate setting: the shipboard summit between George Bush and Mikhail S. Gorbachev.

At the meeting off Malta, the Soviet leader was to receive the first copy of *Quantum*—the U.S. version of *Kvant*, a mathematics and science magazine for talented high-school students in his country.

Although education exchanges between the two superpowers have mushroomed under Mr. Gorbachev's policy of glasnost, the magazine is one of the few efforts so far likely to have a direct impact on classroom instruction.

And the new publication is thought to be the only English-language math and science journal aimed at gifted high-school students.

If it is successful, said Bassam Z. Shakhashiri, assistant director for science and engineering education at the National Science Foundation, which provided $366,000 for the project, the magazine will enhance education in both countries.

"Ideas that have stimulated bright Soviet kids," he said, "will now, in translation, be

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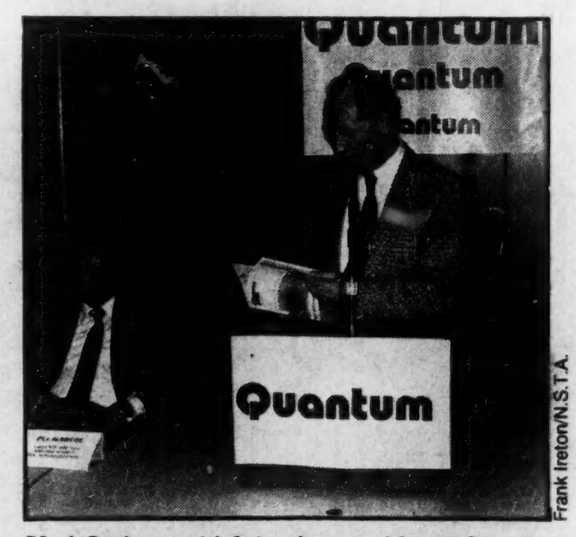

Frank Ireton/N.S.T.A.

Yuri Ossipyan (right), vice president of the Soviet Academy of Sciences, and Bill G. Aldridge, executive director of the N.S.T.A., at a press conference in September.

Also in the news

5 **Back to Braille**
Advocates for the blind try to reinstitute teaching of the time-honored reading system.

7 **School Hazards Cited**
Federal agencies issue warnings on vinyl-asbestos floor tiles and unsafe bleachers.

16 **North Carolina Incentive**
School districts rush to submit improvement plans that may win them regulatory relief.

IN SUMMARY

Behind Closed Doors
School boards often violate state "sunshine" laws by meeting privately to conduct business that should be dealt with in public, according to a study released by a parent-involvement group. **Page 4.**

Drug-Dealing Bus Drivers
Twenty-nine employees of bus companies that service Chicago's public-school bus routes were indicted last week on charges that they sold heroin and cocaine on duty. **Page 7.**

Bleacher Warning
The Consumer Product Safety Commission last week warned schools that certain brands of gymnasium bleachers may collapse if not properly opened and maintained. **Page 7.**

Bilingual Classes Expanded
The New York State Board of Regents has opened bilingual-education classes to some 33,000 additional students by expanding the definition of a limited-English-proficient student. **Page 18.**

New Budget Rules
A new set of ground rules for developing the 1991 federal budget has education advocates and the Education Department's chief budget official wondering how education will fare. **Page 19.**

Defending School Choice
Secretary of Education Lauro F. Cavazos last week attempted to defuse continuing criticism of the Administration's parental-choice initiative during the final regional meeting on the issue. **Page 19.**

The Department Sums Up
It wasn't easy, given the complexity of the budget process, but Education Department officials last week concluded that they would receive $24.15 billion for the 1990 fiscal year. **Page 20.**

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ACROSS THE NATION

STATES

New York State Group Urges Ban On Testing in the Early Grades

The New York State Board of Regents should ban the mass use of standardized tests for children before 3rd grade, and develop alternative methods of assessing their progress, an advocacy group argues in a report issued last week.

Based on a survey of districts' use of such tests in the early grades, the report by the New York Public Interest Research Group found "widespread overuse and misuse of standardized tests."

For example, it notes, 75 percent of schools surveyed test pupils in kindergarten, 88 percent test 1st graders, and nearly all—93 percent—test 2nd graders. Moreover, it states, schools often violate the American Psychological Association's guidelines for administering tests, and most fail to conduct independent studies of tests' validity.

Christopher Carpenter, a spokesman for the department of education, said the board "makes clear to schools that the use of standardized tests as the sole criterion for [promotion] is simply not sound practice." But, he added, the board would not favor an outright ban, since "there are times when [tests] are appropriate."

Virginia's Appointed School Boards Do Not Discriminate, Court Rules

A federal appeals court has ruled that Virginia's system of appointing local school-board members does not discriminate against blacks.

The Nov. 24 decision by a three-judge panel of the U.S. Court of Appeals for the 4th Circuit upholds a 1988 ruling by U.S. District Judge Richard L. Williams in a case brought by the American Civil Liberties Union. *(See Education Week, Sept. 7, 1988.)*

The ruling allows the state to remain the only one in the nation without elected school boards. In Virginia, local governments appoint board members.

The plaintiffs in the case had argued that the system was discriminatory, charging that some jurisdictions with large black populations had few or no black school-board members.

However, the appeals court noted that blacks make up 18 percent of the state's voting population and an equal proportion of the school-board membership statewide.

■ **The New York State Department of Education has recommended tightening security on its statewide Regents examinations by sending copies to schools no more than a day in advance of the tests.**

But the new policy is contingent on a $600,000 appropriation to pay for shipping and packing crates.

The proposal is aimed at curbing the possibility for "evil deeds or carelessness," according to Christopher Carpenter, a department spokesman.

In June, the department canceled the scheduled Regents examination on chemistry after *The New York Post* published the test's answers on the front page to demonstrate the widespread availability of purloined copies.

DISTRICTS

St. Paul Public-School Teachers Authorize First Strike Since 1946

Teachers in St. Paul have voted to authorize a strike against the city's public school district beginning Dec. 5.

Almost 90 percent of the 2,600 members of the St. Paul Federation of Teachers approved the strike, which would be the city's first since 1946.

Negotiations were expected to continue during a 10-day cooling-off period that began Nov. 20.

The teachers' union is demanding an 18.4 percent salary increase over two years, including benefits; the school board has offered a 14.5 percent increase.

In particular, the union is seeking raises for teachers with between 4 and 10 years' experience with the district, because their pay lags behind the salaries of teachers in other districts.

■ **Baltimore school officials are failing to provide timely services for thousands of handicapped children,** a motion filed in federal district court charges.

The motion, filed last month by the Maryland Disabilities Law Center Inc., alleges that the school system is in "massive noncompliance" with a 1988 federal court order calling for prompt evaluation and placement of disabled schoolchildren.

The order, which came in a 1984 case involving five handicapped schoolchildren, required the city school system to speed up its timetables for serving disabled children by setting up a tracking and reporting system for handicapped students, employing private special-education services when public-school staff are unable to do the job promptly, and notifying parents of the legal timelines for providing services to handicapped children.

Few such actions have been taken so far, according to the motion.

Baltimore school officials are expected to file a response to the charges later this month.

■ **Philadelphia school officials have recommended that three employees found to be working for both the city and the school system be fired from one of their jobs.**

The action results from a September audit by the city controller's office. *(See Education Week, Nov. 8, 1989.)* The audit turned up a total of 72 employees who were receiving paychecks from both agencies in apparent violation of the city charter. Twelve were employed full-time by both agencies.

School officials reviewed personnel records and found that 9 of the 12 employees cited had won special permission to hold both jobs.

A school-district spokesman said last week that school personnel staff plan to begin comparing on a biweekly basis the names of all new employees with the names of city workers.

■ **Mayor Kurt L. Schmoke of Baltimore has begun an investigation into the city school district's use of textbooks after discovering more than 100,000 unused books in a local warehouse.**

After a recent surprise visit to the warehouse, the Mayor assigned a Baltimore Gas and Electric Co. executive to investigate the textbook system, saying that many schools are suffering shortages.

District officials said that, to meet demands for lost or stolen books, administrators often order 10 percent more textbooks than are needed. The system also buys books five years in advance, and it is not uncommon to have as many as 100,000 in storage at one time, they said.

■ **Between 2 percent and 4 percent of the 4th-, 5th-, and 6th-grade students surveyed in Prince George's County, Md., have used marijuana, P.C.P., crack, or cocaine,** a new study of 2,800 students has found.

Raymond P. Lorion, a psychology professor at the University of Maryland who conducted the survey for the district, said the findings from the 17 elementary schools were disturbing because the students reported usage rates above the national average for others their age.

Divide and Recycle

Steve Miller/The New York Times

Students at Horace W. Porter School in Columbia, Conn., learn to recycle their lunch utensils and trays as part of a yearlong study of environmental issues.

The survey also found that some students bypassed the traditional "gateway" drugs of alcohol and tobacco and began by using illegal drugs.

■ **Chicago teachers are "somewhat skeptical" about the prospects for widespread improvements under the massive restructuring currently under way in the district**, according to a new survey.

The 142 teachers from 12 predominantly minority schools surveyed said that, on average, they expect "some improvement" in parental involvement, but were less optimistic about possible improvements in student achievement and overall attitude in the schools.

The teachers expect the least improvement in the areas affecting themselves, including teacher morale, autonomy, and professionalism, according to the survey, which was conducted in September by the Chicago Panel on Public School Policy and Finance, a local watchdog group.

The survey also found that teachers who considered themselves well-versed in the reform plan's details were more optimistic about its possible effects in all six areas.

■ **The Duval County, Fla., school board apparently will not appeal a federal appeals court ruling that found the district's schools remain unconstitutionally segregated.**

"I sense no sentiment on the school board to appeal the ruling," said Larry L. Zenke, the county superintendent of schools.

At a board meeting late last month, Mr. Zenke told the board that the court ruling was a "window of opportunity" for the district schools, and said he was confident the district could eventually comply with the court ruling.

A three-judge panel of the U.S. Court of Appeals for the 11th Circuit ruled in September that the district must take additional steps to desegregate its schools. The appeals court ruling overturned a lower-court decision that would have freed the district from court supervision.

In late October, the full court refused to review the ruling. District officials must now develop a new desegregation plan for court approval.

"I think there is a general feeling that we wouldn't have this problem if we'd done what we were supposed to do in the first place," one school official said.

■ **U.S. Supreme Court Justice Anthony M. Kennedy has granted a temporary stay of an order that could require Georgia's largest school district to develop a new desegregation plan.**

The stay was granted pending action by the full Court on a further stay that would set the ruling aside until the DeKalb County schools file an appeal in the case, which they are expected to do by the beginning of next year.

In October, a three-judge panel of the U.S. Court of Appeals for the 11th Circuit overturned a lower-court ruling that declared the district unitary, or legally desegregated. *(See Education Week, Oct. 25, 1989.)*

The ruling requires the district to take further steps, including possibly a mandatory busing plan, to desegregate its schools.

■ **Houston schools are failing in their efforts to prevent dropouts and to recruit teachers among Hispanics**, a Hispanic advocacy group has charged.

The Association for the Advancement of Mexican-Americans issued a "report card" for the Houston Independent School District Nov. 21. It failed the district in two of seven categories: helping dropouts return to school and recruiting Hispanic teachers.

According to the group, about 41 percent of the district's students, but only 8 percent of its teachers, are Hispanic. Association officials also cited a study showing that 60 percent of the county's male Hispanic students drop out of school.

Concerns about the educational problems of Hispanic students in the district helped fuel a large student walkout at a city high school earlier this fall. *(See Education Week, Nov. 8, 1989.)*

The district received a "B" for encouraging partnerships with businesses, a "C" for renovating school facilities, a "D" for its dropout-prevention strategies, and a "D" on state-mandated test scores. It received a grade of "Incomplete" for its efforts to promote parental involvement.

Joan Raymond, the school superintendent, contested the grades, and released recent graduation test scores that showed improvement by Hispanic students. She also promised last week to release figures showing the district's improvements in retaining Hispanic students.

DIMENSIONS

The 20 Largest U.S. Cities

The latest ranking of U.S. cities by population size reflects a 20-year trend in which the nation's population has shifted from the North and East to the West and South.

In 1970, 7 of the nation's 10 largest cities were in the North and East; by 1988, only 4 were in those regions. Baltimore, Washington, and Cleveland, for example, had been replaced by San Diego, San Antonio, and Phoenix, according to data from the U.S. Census Bureau.

Some of the growth in Western and Southern cities can be attributed to territorial annexation, the bureau reports, but most of the increase has resulted from population shifts.

Notable among the fast-growing cities is Jacksonville, Fla., which climbed from 26th place in 1970 to 22nd in 1980 and 16th in 1988. Similarly, San Jose, Calif., went from 29th place in 1970 to 12th in 1988.

The estimates do not include suburban populations.

Ranking of U.S. Cities by 1988 Population

Rank, City and State	Estimate, July 1, 1988	1980	1970
1. New York, N.Y.	7,352,700	1	1
2. Los Angeles, Calif.	3,352,710	3	3
3. Chicago, Ill.	2,977,520	2	2
4. Houston, Tex.	1,698,090	5	6
5. Philadelphia, Pa.	1,647,000	4	4
6. San Diego, Calif.	1,070,310	8	14
7. Detroit, Mich.	1,035,920	6	5
8. Dallas, Tex.	987,360	7	8
9. San Antonio, Tex.	941,150	11	15
10. Phoenix, Ariz.	923,750	9	20
11. Baltimore, Md.	751,400	10	7
12. San Jose, Calif.	738,420	17	29
13. San Francisco, Calif.	731,600	13	13
14. Indianapolis, Ind.	727,130	12	11
15. Memphis, Tenn.	645,190	14	17
16. Jacksonville, Fla.	635,430	22	26
17. Washington, D.C.	617,000	15	9
18. Milwaukee, Wis.	599,380	16	12
19. Boston, Mass.	577,830	20	16
20. Columbus, Ohio	569,570	19	21

PEOPLE

■ Commissioner of Education **Ruth Randall** of Minnesota, a key advocate of Gov. Rudy Perpich's school-choice programs, has resigned her office effective Jan. 5. Ms. Randall, who announced her departure last week, will become a full professor of educational administration at the University of Nebraska in Lincoln.

She will be succeeded by Tom Nelson, director of state relations for the University of Minnesota. He is a former state senator with extensive experience as a school administrator and teacher.

■ **Miles Myers**, president of the California Federation of Teachers, has been named executive director of the National Council of Teachers of English, effective April 2, 1990.

Mr. Myers, who is also associate director of the Bay Area Writing Project, a nationally recognized effort to improve the teaching of writing, will succeed John C. Maxwell, who has served as the council's executive director since 1981.

As president of the teachers' union, an affiliate of the American Federation of Teachers, Mr. Myers played a role in the recent merger of two teachers' unions in San Francisco.

One of his top priorities at the N.C.T.E., he said in a statement, will be to address what he called the "mismatch" between effective teaching methods and the knowledge measured on standardized tests.

■ **Richard C. Kunkel** said last week that he will leave his job as executive director of the National Council for Accreditation of Teacher Education to become dean of the college of education at Alabama's Auburn University.

Mr. Kunkel took the helm of the national accrediting body in 1984, following a period of widespread criticism of NCATE for being "weak" and arbitrary in its evaluations. Under his direction, the organization underwent a comprehensive redesign that has had the effect of toughening up its accreditation process. *(See Education Week, Sept. 27, 1989.)*

"I came here to do a job with the redesign, and we've got it pretty well in hand," Mr. Kunkel said. "Now it's time for somebody else to pick up."

Mr. Kunkel assumes his new post on Jan. 1. He said the organization's executive board hopes to conclude a national search for his successor next spring. Donna M. Gollnick, NCATE's deputy executive director, will be interim executive director.

■ After six months of anonymity, **Gil Braun**, a 1933 graduate of Webster (S.D.) High School, recently stepped forward to reveal himself as the donor of $500,000 in matching funds for a new school building.

Last February, a local lawyer got in touch with Arnie Anderson, the superintendent of Webster public schools, to tell him that a graduate of the school would make a $500,000 donation if the superintendent could come up with a worthwhile proposal.

The superintendent's proposal for a new building to ease overcrowding in the elementary and high schools was accepted in March. Last month, the school board hired an architect and voted to borrow $700,000 in matching funds from the South Dakota Department of Education's capital outlay fund.

Mr. Braun, now a resident of Edina, Minn., had kept his identity concealed because he wanted to "make sure the board would take action to come up with the money," Mr. Anderson explained. The benefactor wanted to do something for Webster, but, Mr. Anderson said, "he wanted the community to make a commitment, too."

After graduating from the high school in 1933, Mr. Braun eventually started Braun's, a chain of women's clothing stores, which he sold in 1986.

■ The National Education Association recently honored **Nellie Gonzalez**, a special-education teacher at Englewood Elementary School in Orlando, Fla., as the union's official two-millionth member.

"Believe me, today America needs every bit of the strength of two million united educators to meet the challenge American education must face," Keith B. Geiger, president of the N.E.A., said at a recent ceremony in Orlando. "More than ever before, the future prosperity of America depends on our schools."

The N.E.A., founded in 1857, reached 500,000 members in 1953 and one million members in 1967.

■ **John Erickson** is Oregon's new superintendent of public instruction.

Mr. Erickson replaces Verne A. Duncan, who resigned Nov. 15 to become dean of education at the University of Portland.

As interim superintendent, Mr. Erickson will serve until January 1991, when an elected successor will take over the post. He has said he will not seek the position.

Mr. Erickson had been superintendent of schools in Lincoln County since 1985.

UPDATE

■ **The driver whose truck knocked a Texas school bus into a gully Sept. 21 has pleaded innocent to 21 counts of involuntary manslaughter.**

Ruben Perez faces up to 10 years in jail and a maximum fine of $10,000 in connection with the deaths of 21 students in Alton, Tex. The accident, in which 60 students were also injured, occurred when his truck ran a stop sign and crashed into the bus. *(See Education Week, Sept. 27, 1989.)*

Mr. Perez, who has been under 24-hour protection by private security guards reportedly because of threats against his life, was released Nov. 22 after posting bail. His trial is scheduled to begin March 12.

According to an assistant district attorney in Hidalgo County, where the accident occurred, it is "very likely" that Mr. Perez's lawyer will seek a change of venue for the trial.

The grand jury that returned Mr. Perez's indictments may also indict several lawyers for illegally soliciting business from the victims' families.

■ **Rudy R. Gatti, a veteran California schools superintendent, has been named advisory trustee to assist the Oakland Public Schools in developing financial-recovery and educational-improvement plans.**

The California legislature created the position this year in a special bill designed to establish a stronger state role in overseeing the Oakland schools, which have faced charges of financial mismanagement and corruption. *(See Education Week, Sept. 13, 1989.)*

Mr. Gatti was most recently superintendent of the Santa Clara Unified School District, a position he held for 15 years.

WASHINGTON

Cavazos Emphasizes Choice Initiative Not at Odds With Local School Control

By William Snider

RICHMOND, CALIF.—In an attempt to defuse criticism of his parental-choice initiative, Secretary of Education Lauro F. Cavazos last week emphasized that the concept does not infringe on local control of public schools.

Further, the Secretary stressed, his efforts to promote the initiative have not detracted from the Education Department's efforts in other areas.

Critics have assailed Mr. Cavazos at each of the five regional strategy meetings on choice. And his remarks here at the final session indicated that he is concerned about the criticism, but that he has not wavered in his support for the concept.

"I want to make this point clearly, for the record, so that everybody understands it," he said with uncharacteristic verve. "The Department of Education has absolutely no intention, or authority, to impose academic choice, or any of the other restructuring strategies proposed, on any state or local school system."

"The choice must be yours," he told the nearly 1,000 educators, policymakers, and others at the meeting.

"All that we're doing is giving leadership to the ideas that are designed to help us erase our educational deficit," he said. "If we did not do that . . . we would not be doing our jobs."

Critics of Choice

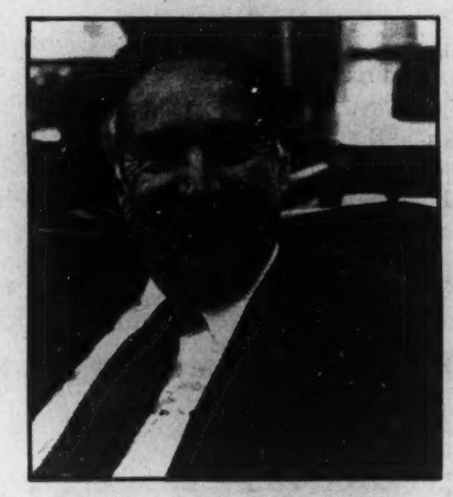
Much of the criticism has come from Representative Augustus F. Hawkins, the California Democrat who chairs the House Education and Labor Committee, whose staff members have voiced their objections at each of the five meetings.

The most frequent criticism has been that the choice meetings have reduced the department's ability to implement and enforce federal laws, including the Hawkins-Stafford School Improvement Act of 1988.

In response, Mr. Cavazos vowed that the department "will fully meet the intentions of Congress relative to all, all of the legislative acts that have been passed in the area of education."

Mr. Cavazos also responded to frequently voiced fears that choice could hurt desegregation efforts when he said that "neither the President nor I would support this if we thought that were the case."

> *"The Department of Education has absolutely no intention, or authority, to impose" choice.*
>
> —Lauro F. Cavazos



Another concern raised by critics—that disadvantaged families would be unprepared or unable to benefit from choosing schools—was addressed by the selection of meeting sites where choice plans have had a positive impact on a broad range of urban students.

Some 65 percent of the nearly 30,000 students served by the Richmond Unified School District in suburban San Francisco, for instance, are members of minority groups, and many are from immigrant families that speak one of almost 70 different languages and dialects.

And together with East Harlem, N.Y.—site of the first regional strategy meeting—the Richmond choice plan is considered one of the most dramatic and successful examples of local choice plans in action, Education Department officials said.

Richmond's experience "demonstrates that choice can be implemented quickly and effectively," said John D. Klenk, director of the Secretary's choice initiative.

Asked to assess the impact of the five regional meetings, Secretary Cavazos said in an interview that the sessions had been successful in sparking a national debate on school restructuring.

Building a Coalition

"What I'm trying to do is to force the issue, if you really want to get right down to it," he said. "Over the past year, we've built a coalition of people—teachers and parents and business people and students and government officials—who recognize the urgent need to restructure our schools."

Mr. Cavazos added: "I am surprised by the reaction of some people to the fact that the Department of Education would even carry out meetings on choice, saying, 'You shouldn't be doing those kinds of things.' "

"That surprised me," he said, "because I saw it clearly within the purview of my job to try to carry forth

Continued on Page 21

Effects of Spec.-Ed. Law Hard To Gauge, Study Says

WASHINGTON—A General Accounting Office study has failed to reach firm conclusions regarding the impact of a controversial law enabling parents who win special-education disputes with school districts to collect legal fees.

"There does seem to be a move toward informal resolution of complaints," said William A. DeSarno, G.A.O. assignment manager for the study. But drawing broader conclusions was difficult, he said, because of "the scarcity of data being collected by the state education agencies."

The study, released last month, found increases in the number of administrative hearings being scheduled to resolve special-education disputes. But that trend, it said, began before the enactment of the Handicapped Children's Protection Act of 1986, and therefore cannot be clearly linked to the law.

First Study of Its Kind

The study was authorized by the 1986 act and represents the first national collection of data related to special-education hearings.

It addresses concerns, expressed by opponents of the law, that litigation in the special-education field will increase as a result of the act's provision authorizing courts to award reasonable attorney's fees to parents of handicapped children who prevail over school districts in "actions or proceedings."

The G.A.O. surveyed directors of the offices responsible for special education in 50 states and the District of Columbia, collecting data from the fiscal years 1984 through 1988.

The resulting study found that the number of scheduled administrative hearings increased by 29 percent between fiscal years 1984 and 1989. But the percentage of hearings that resulted in administrative decisions dropped from 63 percent in 1984 to 51 percent in 1988, indicating, according to the authors, that more cases are being resolved informally.

Moreover, the study found, more than half of the increase in scheduled hearings occurred before passage of the 1986 act.

Among other findings were that:

- Parental use of lawyers increased during the five-year period. Parents had lawyers in 54 percent of administrative hearings resulting in decisions in 1988, compared with only 41 percent in 1984.
- Most states had no data on the amount of legal fees awarded, making it difficult to gauge the monetary impact of the 1986 act.
- Educational-placement issues were the most frequent type of complaint considered in both administrative hearings and civil cases, accounting for 38 percent of all disputes. Parents' success rates varied with the kind of disagreement they had with districts.
- Overall, parents prevailed in about 43 percent of all administrative and court cases between 1984 and 1988.

> G.A.O. report notes scarcity of data.

Copies of "Special Education: The Attorney Fees Provision of P.L. 99-372," can be obtained from the G.A.O. by calling (202) 275-6241. —P.S.

New Budget-Office Rules for '91 Make the Numbers Game 'Intriguing'

By Julie A. Miller

WASHINGTON—The ink on the 1990 federal budget is barely dry, but federal officials are already at work on the Bush Administration's 1991 request, which will have to meet an even stricter deficit-reduction target.

Administration officials will also have to cope with a new internal process, devised by Richard G. Darman, director of the Office of Management and Budget, that apparently is designed to strengthen the O.M.B.'s bargaining position and reduce the number of appeals agencies make to the White House.

Education advocates and the Education Department's chief budget official, Charles E. M. Kolb, agreed last week that it was impossible to predict how the department would fare under the new rules.

But Mr. Kolb, deputy undersecretary for planning, budget, and evaluation, was neither concerned nor surprised about Mr. Darman's system.

"I came from O.M.B., remember," he said. "[The new process is] novel. I find it intriguing."

As in previous years, the O.M.B. has given each agency a funding level for each program within its purview, as well as an aggregate "mark." But it has also segregated programs into an "A" pool and a "B" pool.

The programs in the "B" pool—which Mr. Kolb said is rumored to include the entire budgets of some small agencies—must vie for funds in a new competition. Agency heads will make their cases to President Bush, who will personally decide how to divvy up available funds, which will total less than the requests.

If agency officials are not happy with the O.M.B.'s marks for some of their "A" programs, they can negotiate with the budget agency, as in the past; they also have the option of adding them to the "B" pool and making a pitch to Mr. Bush for higher funding. In the past, all O.M.B. decisions could be appealed to the White House individually.

Entering the competition means taking a risk, as the program in question could end up with less than the O.M.B. had allotted. Therefore, officials say, this system not only forces Mr. Bush to choose between programs but also discourages agencies from making appeals for run-of-the-mill projects that would be pitted against high-priority initiatives.

Mr. Kolb said he didn't know how much money was in the "B" pool, and noted that the pot would grow when agencies added programs to it.

"You can bring your own chips to the table, so to speak," he said.

How Will Education Fare?

Mr. Kolb declined to say how many chips Secretary of Education Lauro F. Cavazos would be anteing up, or what programs they represented.

"I can't infer whether [education] will do better or worse" under the process, Mr. Kolb said.

"We're hopeful that given the priority the President has placed on education, the department will fare pretty well," he said.

Susan Frost, executive director of the Committee for Education Funding, added, "It depends on the President's feelings and priorities, since he's making the decision, and on how well the Secretary makes his case."

"The question is, is education going to fare better than housing or AIDS? Who knows?" she said.

Education advocates hope the public statements made by the President on the importance of education will translate into dollars. They note that the statement issued by Mr. Bush and the governors at their education summit in September advocated more federal support for programs that aid disadvantaged children and for education research.

But budget limits will be tighter than ever next year. To comply with the Gramm-Rudman-Hollings deficit-reduction law, the 1991 budget must produce a deficit of no more than $64 billion.

The 1990 deficit target was $110 billion, and was met only with liberal use of accounting gimmicks and one-time savings—and by across-the-board cuts in the amounts set in the appropriations process for discretionary programs.

Citing the tumultuous events in Eastern Europe as evidence of a lessening Communist threat, Administration officials have said they will propose significant cuts in the defense budget.

Some observers say those cuts, plus a revival of domestic-spending cuts proposed by the Reagan Administration and repeatedly rejected by the Congress, may be enough to meet the target and put the ball in the legislative branch's court.

Some education advocates fear Mr. Bush's willingness to accept defense cuts may mean he will accept a full-scale "sequester" next year under the deficit-reduction law rather than negotiate a budget agreement with the Congress. In the past, the threat of defense cuts brought the Administration to the bargaining table when across-the-board cuts loomed.

Others are concerned that the Congress will again use a partial sequester to help meet the target, as happened for the first time this year—when favorable funding levels won in the appropriations process were reduced in a last-minute budget agreement.

"I think that once they do this, it's a given unless there is a terrific push to stop it," Ms. Frost said. "It's easy for them to vote on at 4 o'clock in the morning."